

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Broadcast Localism)	MM Docket No. 04-233
)	

Comments of United States Conference of Catholic Bishops

The United States Conference of Catholic Bishops (“USCCB”) submits the following comments in the above-referenced Notice of Inquiry, released July 1, 2004.

The USCCB is a nonprofit corporation organized under the laws of the District of Columbia. All active Catholic Bishops in the United States are members of the USCCB. USCCB advocates and promotes the pastoral teachings of the Bishops in such diverse areas as education, health care, social welfare, immigration, civil rights, family life and communications. USCCB is committed to maintaining a place for religion and values on the public airwaves and to programming that inspires, informs and educates. Protection of the public’s rights to disseminate and receive information from diverse sources, including local religious entities, on the scarce public resource of the airwaves is at issue in this inquiry and is a matter of particular concern to the USCCB.

USCCB is in regular contact with Catholic dioceses throughout the United States (dioceses are religious entities, separate from the USCCB and from each other, headed by a Catholic bishop or archbishop, which conduct the affairs of the Catholic Church in a given geographic entity). A significant number of dioceses have produced programs and public service announcements (“PSAs”), but have informed USCCB of the difficulty of interesting local broadcasters in such programming, and the increased financial burden imposed by local broadcasters on them for airtime. Local broadcasters’ programming decisions’ regarding this religious programming indicates that they are more interested in commercial gain than in serving their communities’ interest in religious matters.

For decades, the FCC interpreted a broadcast licensee’s statutory obligation to serve the public interest by meeting local needs and interest as including meeting its community’s interest in religious programming. “In a sense a broadcasting station may be regarded as a sort of mouthpiece on the air for the community it serves....” Public Service Responsibility of Licensees (1946). A broadcast licensee may be required by the government “to share his frequency with others and to conduct himself as a proxy or fiduciary with obligations to present those views and voices which are representative of his community....” Red Lion Broadcasting v. FCC, 395 U.S.367, 389 (1969), *cited with approval*; CBS v. DNC, 412 U.S. 94, 123 (1973); FCC v. National Citizens Committee

for Broadcasting, 436 U.S. 775, 798-800 (1978); CBS v. FCC, 453 U.S. 367, 395-96 (1981); FCC v. League of Women Voters, 468 U.S. 364, 377-78 (1984); Turner Broadcasting System v. FCC, 512 U.S. 622, 637-38 (1994); and Reno v. ACLU, 521 U.S. 844, 868 (1997). In 1960, the FCC clarified a broadcast licensee's obligation to serve the public interest by issuing programming guidelines. 1960 Programming Statement, 20 R.R. 2d 1901 (1960). The guidelines included, as one of the "major elements usually necessary to meet the public interest, needs and desires of the community in which the stations is located... [including] Religious Programs." *Id.* at 1913. In 1971, the FCC further assisted broadcast licensees to meet their statutory obligation to serve local needs and interests by developing methods to determine those needs and interests, one of which was to interview community leaders. Primer on Ascertainment of Community Problems, 21 R.R.2d 1507 (1971). Among these community leaders listed by the FCC as appropriate for broadcast licensees to interview are religious leaders. *Id.* at 1518.

Since the FCC began to unravel its regulatory structure for broadcasters in 1984, religious communicators have seen a steady decline in broadcast programming which meets local religious needs. Catholic dioceses throughout the United States report that they must pay local broadcasters for airtime for a televised Mass. Although the typical annual budget for the communications activities of a diocese is less than \$100,000 (which generally covers press relations, local newspaper operations and salaries), many are willing to use a significant portion of it to pay local broadcasters to air local Masses, because community members inform dioceses that they find it valuable. The price paid by dioceses is high: from a low of \$400 per week to a more than \$2,700 per week. Even during times of the year when communities' interest in religious programs is high, for example, at Christmas, airtime is not always free for religiously themed programs, dioceses report.

Dioceses pay a penalty if they do not pay outright for airtime for programs and public service announcements ("PSAs"). They consistently report that if they do not pay their local broadcaster to air a PSA or program, those are banished to graveyard times when few are in the audience. One director of communications stated, "[t]he response of the local [broadcast] station has been to run PSAs generally not in primetime, but in a manner as to encourage you to buy time." Another said, "[w]e provide a Mass to a local television station in our diocese, who has broadcast it for free for about 25 years. However, they have gradually pushed back the airtime to 5 a.m. on Sundays."

This system which requires cash-strapped dioceses to spend money not only to produce a local religious program but also to ensure that it airs when the community may actually receive it, has resulted in less noncommercial religious programming. Many dioceses which used to produce local programs have ceased production because of the prohibitive costs. Independent Catholic programmers, too, which used to provide the community with other religious voices, have ceased operations.

Paying for airtime is not a new phenomenon; dioceses report that paying to avoid graveyard airtimes began in the late 1980s, and was well established by the early 1990s. These dates are no accident – in 1984, the FCC began to dismantle the system of

broadcast regulations which have promoted broadcasters' ties to their communities of license.

USCCB urges the FCC to reconfirm broadcasters' obligation to serve their local communities of license with programs which respond to those communities' needs and interests, including their religious interests, by promulgating regulations to require that broadcasters serve the public interest.

Respectfully submitted,

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November 1, 2004